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Kashmir Media Policy: Accentuating the Curbs on the Freedom of Press

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Journalists reporting from Kashmir have always worked under immense pressure, facing intimidation, assaults, and arrests. The latest media policy, announced by the Kashmir administration in May 2020, is a continuation of measures taken to curtail the free flow of information in Kashmir after the abrogation of Article 370. Its larger aim is to make media a mere carrier of the "news" that the government intends to disseminate, and to prevent it from peddling "fake" news and indulging in "anti-national" activities.

The Media Policy 2020 of the Jammu and Kashmir administration aims to create a sustained narrative in the media about the functioning of the government. Moving away from print to the "new modes of communication," it also signals a shift in the focus of the administration to a controlled, unidirectional mode of communication, while issuing a warning to the independent news media that allegedly peddles "fake" news, or indulges in "anti-national" activity to toe the official line.

The union government's shutdown of all modes of communication in Kashmir, in the wake of the abrogation of Article 370 in August 2019, has completely crippled the news media in the valley, leaving journalists to depend on the meagre and heavily-surveilled resources of a

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government-run media centre for information. Six months later, 2G broadband was restored, and around 350 websites were whitelisted. But, even this controlled easing of restrictions has not alleviated the situation of information blockade in Kashmir.

The desperate need for the restoration of full internet connectivity in the wake of COVID-19 pandemic, especially felt by healthcare workers and students dependent on the internet for online classes, has cut no ice with the Supreme Court of India. In a petition filed by *Kashmir Times* editor Anuradha Bhasin Jamwal to lift the internet shutdown, the apex court has merely issued a directive to a review committee. In another petition filed by the Foundation for Media Professionals, it has directed a special committee to review internet restrictions. Even this was not adhered to as internet restrictions were extended on 8 July 2020 (Roy 2020). On 29 July 2020, the Government of Jammu and Kashmir extended internet restrictions up to 19 August 2020 citing security considerations in the wake of "inputs suggesting rise in anti-national activities." (Home Department 2020).

Journalism under Repression

Journalists reporting from Kashmir have always worked under immense pressure, facing intimidation, assaults, and arrests. The killing of editor-in-chief of *Rising Kashmir*, Shujaat Bukhari, in the heart of Srinagar on 14 June 2018 has sent shock waves through the media, but till date, there has been little or no headway in the investigations into the killing.

Journalist associations like the Kashmir Press Club have, time and again, decried the manner in which draconian provisions of the Public Safety Act, 1978 (PSA) and the Unlawful Activities (Prevention) Act, 1967 (UAPA) have been used against journalists and media houses to harass them over the last few years.

Photojournalist Kamran Yusuf was arrested by the National Investigation Agency (NIA) on 5 September 2017 on the charges of stone-pelting and was released on bail on 14 March 2018. *Kashmir Narrator* reporter Aasif Sultan was arrested on 31 August 2018 under the UAPA on the charges of supporting militant activity, and he continues to be in prison till date. Journalist and news editor of Anantnag-based news website *The Kashmiriyat*, Qazi Shibli, was arrested on 25 July 2019 under the PSA for his report on the troop build-up in Kashmir before the revocation of Article 370 and was released only nine months later on 25 April 2020. He was picked up again on 31 July 2020 and was detained by Kashmir cyber police with no reasons ascribed for his detention.

In April 2020, Kashmir cyber police lodged a string of first information reports against journalists, and summons were issued for questioning them over their news reports. Photojournalist Masrat Zahra was charged under UAPA for social media posts, *The Hindu's* senior correspondent Peerzada Ashiq for reportedly filing an officially unconfirmed report, and senior journalist Gowhar Geelani for a social media post. In July 2020, the editor of news website *Kashmir Walla*, Fahad Shah, was summoned for questioning over his news report on the 19 May 2020 encounter in Nawakadal, Srinagar.

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Against this bleak scenario, it is fair to believe that the new Kashmir media policy only underlines the utter vulnerability of the media. Issued via a government order on 15 May 2020, the 53-page document bears a clear warning both to the owners of the media houses as well as to the journalists they employ. According to the empanelment guidelines of the policy, which lays down the criteria for the media's eligibility to obtain government advertisements, the Department of Information and Public Relations (DIPR) would go into the "antecedents of the paper/news portal as well that of its publishers/editors/key personnel" before the empanelment. Similarly, it would also do a "robust background check including verification of antecedents of each journalist." (Information Department 2020).

The policy document unequivocally states:

> "DIPR shall examine the content of the print, electronic, and other media for fake news, plagiarism and unethical or anti-national activities. Any individual or group indulging in fake news, unethical or anti national activities or in plagiarism shall be de-empanelled besides being proceeded against under law. There shall be no release of advertisements to any media which incite or tend to incite violence, question sovereignty and integrity of lndia or violate the accepted norms of public decency and behavior." (Information Department 2020).

Justifying such measures, it further states:

> "J&K has significant law and order and security considerations. It has been fighting a proxy war supported and abetted from across the border. In such a situation, it is extremely important that the efforts of anti-social and anti-national elements to disturb the peace are thwarted." (Information Department 2020).

Monopolising the Flow of Information by the State

The Kashmir media policy also spells out ways in which the government aims to disseminate information, by holding press conferences and exhibitions, and by conducting guided tours. It also states that its focus would reduce from print and move towards outdoor publicity material, radio, audio-visuals, and online media.

On its decision to lay emphasis on online media, the policy states:

> "With the dwindling print media, Online Media has gained ground. Most print media have online editions. Many publications have totally shifted to online

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> mode. In addition, there are many online only portals. Most of the people use their mobile phones to get access to news through these news portals instead of relying on newspapers or publications. These too shall be focused on by the department." (Information Department 2020).

As of 2018, Jammu and Kashmir had 1,094 registered newspapers and periodicals. However, a vibrant news media has been crippled totally by the internet shutdown beginning in August 2019, following the revocation of the special status of Jammu and Kashmir. The government's media policy has conveniently decided to ignore the inconvenient truth about internet shutdowns and low broadband connectivity. In fact, its focus on these "new modes of communication" would only serve to make citizens passive recipients of the information the government intends to disseminate.

A month after the abrogation of Article 370 and the imposition of a communication blockade in Kashmir, the Free Speech Collective (FSC) and the Network of Women in Media India (NWMI) published a report on the impact of the communication shutdown on the media (Murthy and Seshu 2019). The report said:

> "In the absence of reportage from the ground, the government's influence of the narrative of normalcy is near total. Its official proclamations of the creation of a 'Naya Kashmir' have become vociferous. In contrast, there is a deafening silence and invisibilisation of voices from Kashmir expressing alienation, anger and disillusionment at perceived breach of trust. The government's control of communication processes is intrinsically undemocratic and harmful, as it privileges the voices of authority and weakens those who speak truth to power." (Murthy and Seshu 2019).

A year on, the government's efforts to control the narrative continues to be of paramount importance.

A Laboratory in the Making

The Kashmir media policy brings the fundamental relationship between the government and the media in Jammu and Kashmir into sharp focus. It constitutes the first stated "media policy" of the National Democratic Alliance (NDA) government in any state or union territory. It also goes beyond the existing policy of the Government of India and spells out a strict set of regulations that the media here must adhere to.

The Bureau of Outreach and Communication (BOC) is the central agency that plots the government media strategy. It is an amalgam of the Directorate of Advertising and Visual Publicity (DAVP), the Directorate of Field Publicity (DFP), and the Song and Drama Division (SDD), and it was formed in 2017.

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In 2016, a year before it was merged into BOC, the DAVP released its revised print media advertisement policy. Its preamble stated:

> "In releasing advertisements to newspapers/journals, the DAVP does not take into account the political affiliation or editorial policies of newspapers /journals. However, DAVP would avoid releasing advertisements to newspapers /journals, which incite or tend to incite communal passion, preach violence, offend the sovereignty and integrity of India or socially accepted norms of public decency." (DAVP 2006).

These norms continued in the new Print Media Advertising Policy, 2020, released on 23 July 2020, and it came into effect from 1 August 2020 (Ministry of Information and Broadcasting 2020a). The DAVP policy for electronic media is also on the same lines. Channels can be suspended or debarred if they furnish false information (DAVP 2020a).

On 13 May 2020, the Ministry of Information and Broadcasting announced social media policy, empanelment of social media platforms for government advertising, by which a social media platform eligible for advertising must operate with the same domain name for six months, and have a minimum of 25 million unique users per month from within India, and its content is not anti-national /obscene / indecent / antisocial / violative of communal harmony and national integrity or violative of provisions of the Information Technology Act, 2000 and any such content must be moderated or deleted by the "vendor." (Ministry of Information and Broadcasting 2020b).

The Print Media Advertising Policy, 2020 gives details on the procedures for empanelment of newspapers, and for the suspension from the empanelment (Clause 17), including providing "fabricated or exaggerated" news about circulation figures and Clause (v), which reads "convicted by court of law for any criminal offence / conduct." (Ministry of Information and Broadcasting 2020a: 14)

The new print media policy states that reasonable opportunity would be given to the publication before suspension, providing the hope that some due process would be initiated to determine violators in a court of law. Moreover, penalties in terms of warnings and suspensions will be imposed if a publication is found by PCI to have violated "norms of journalistic conduct," or having indulged in any anti-national activity (Ministry of Information and Broadcasting 2020a:15)

In contrast, the Kashmir media policy states that the DIPR shall examine the content of the print, electronic, and other media for fake news, plagiarism, and unethical or anti-national activities. Any individual or group indulging in fake news, unethical or anti-national activities or in plagiarism shall be de-empanelled, besides being proceeded against under law.

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Besides, no advertisements will be released to “such newspapers, publications and journals, which incite or tend to incite communal passions, preach violence, violate broad norms of public decency or carry out any acts or propagate any information prejudicial to the sovereignty and integrity of India” (Information Department 2020).

Moreover, empanelled publications cannot drop or refuse to publish government advertisements. If they do so, they can be de-empanelled by DIPR for six months. An internal mechanism will be set up by the DIPR to monitor the guidelines, and to suspend violators. Appeals can be made to a review committee headed by the administrative secretary, information department, and comprises as members the additional secretary of the home department, and the director, finance, and the director of DIPR. Essentially, the DIPR acquires the power of a dispensing authority, the judge and the jury.

An Orwellian Scenario

The near-total internet shutdown, the stranglehold over facilities for news media, and the continuing intimidation of editors and journalists have had a chilling effect on the media in Kashmir. Press organisations have been largely silent over the policy, with only one public protest held on 6 July 2020 in Srinagar by Jammu and Kashmir Media Association and Jammu and Kashmir Media Guild (Ashiq 2020).

Outside the valley, the situation is no better. *The Indian Express* is one of the few media houses that criticised the policy. Likening the policy to an Orwellian scenario, its editorial titled "Ministry of Truth," said:

> “Clearly, the J&K administration’s ideas of democratic governance are very different from what the Constitution of India promises…At a time when democratic political voices remain missing in J&K, the “new media policy” is a further affront, intended to keep control of the narrative of J&K.” (*Indian Express* 2020).

The Telegraph has also voiced concern over the policy, and sees it as misadventure on the part of the government to widen chasm between people of Kashmir and the centre, leading to widespread implications on the security front in the region.

> “Such an intervention could distort truth and silence voices critical of the administration. Indeed, controlling the nature and the dissemination of news seems to be the underlying motive of an administration that has been criticized for harassing journalists in Kashmir. It must also be remembered that the Union territory is now without an elected government. Choking the voice of an independent media would go a long way in widening the chasm between the people and the Centre. This could have ominous repercussions on security in

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> the region that remains fragile in spite of a muscular government at the Centre." (*Telegraph* 2020).

Strangely, it is the Press Council of India (PCI) that is generally considered as "toothless," has decided to take a suo-motu cognisance of the media policy, though it confined itself only to the "fake news" provisions (PCI 2020). On 16 June 2020, PCI sought comments from the chief secretary, Government of Jammu and Kashmir, and the secretary, information department, DIPR, Government of Jammu and Kashmir. PCI said that the provisions regarding "fake news," which allow authorities to decide on what constituted fake news, affects the free functioning of the press (PCI 2020). It is unclear whether the DIPR has cared to respond to the PCI as yet.

No Advertisements for 'Anti-national' Media

The control over media by regulating government advertising is hardly a new phenomenon in Kashmir. Government advertisements have been withheld from prominent newspapers, like *Kashmir Times* and *Rising Kashmir* for long periods for alleged anti-national reports. In February 2019, advertisements were suspended for two other prominent English newspapers, *Greater Kashmir* and *Kashmir Reader* (Iftikhar 2019).

In 2010 too, there were reports that the union home ministry had issued a circular to several ministries and agencies to stop advertisements and financial support to three English newspapers of Kashmir, *Kashmir Times*, *Greater Kashmir*, *Rising Kashmir*, and two Urdu newspapers, *Buland Kashmir* and *Ethlaat*, for alleged anti-India propaganda (Pandey 2011).

For its part, the *Kashmir Reader* faced a ban in 2016. Its then editor, Hilal Mir, wrote in the media watch website *The Hoot*:

> "Countless examples can be cited to show that the subversion of reality in Kashmir by the majority of Indian media outlets has rendered an interface—and hence solidarities—very difficult, if not impossible." (Mir 2016).

Amidst this bleak scenario, solidarities have not been forged strongly among media outlets and journalists leaving independent media houses to fight lonely battles. As a result, the policy to cut advertising revenue has only continued at pace. Shujaat Bukhari, the editor of *Rising Kashmir*, said, "Some newspapers have been blacklisted for several years for their critical stands" (IFS 2017: 7).

On 18 October 2017, a letter from the union home ministry addressing senior officials of the state government and the Jammu and Kashmir police said: "It is understood that some newspapers in J&K are publishing highly radicalised content. This is against the

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Constitution of India as well as the Constitution of Jammu and Kashmir." (IFJ 2017).

The letter further says, "... publishing of anti-national articles in the newspapers of the state should be strictly dealt with. Such newspapers should also not be given any patronage by way of advertisements by the state government. This may be circulated to all concerned for strict compliance." (IFJ 2017).

For over a decade, Kashmir Times has been struggling against blacklisting by successive governments. In 2010, Kashmir Times had petitioned PCI, but gave up after nothing came out of its complaint. The ban was lifted subsequently for other newspapers but Kashmir Times continued to be on the blacklist. It suffered immensely due to the loss of government advertising revenue, and was forced to curtail its print run, cut down on staff and even sell its Hindi and Dogri-language newspapers (Iftikhar 2019).

On the latest media policy, *Kashmir Times* editor Anuradha Bhasin Jamwal says it would serve as a death knell for journalism in the Valley:

> "The Media Policy 2020, however, paves the road for killing journalism in one go. If this unconstitutional document becomes the legal bible, the media persons are caught between the options of surrendering and turning themselves into vehicles of the state's propaganda machinery or standing up in defiance at the risk of being persecuted. Other than that, journalism can be reduced to writing about weather and wholesale market rates but for all one knows, even that could be deemed "fake and anti-national" in the future." (Jamwal 2020).

Sticks and Carrots

Accustomed as we are to parroting the maxim that the media is the fourth estate in a parliamentary democracy, we rarely get down to dissecting the real nature of this relationship beyond raising the flag for freedom of the press when the occasion demands. Kashmir's media policy provides an excellent opportunity to hold a mirror to what lies ahead.

The ugly truth, of course, is scarcely a state secret. It is hard to hide the stick, and way easier to cry foul every time it is wielded (though some press bodies may have to be goaded to do so). Large parts of the carrot for selective journalists and media owners are also hidden from the public view—Rajya Sabha nominations, awards, government housing, broadcast licenses, heads of the state gracing the media's mega events, among others.

In June 2019, the media carried reports stating that the government was withholding its advertisements from three prominent media companies—*The Times of India Group*, *The Hindu Group* and *The Telegraph Group* for their "adverse reportage." The latter two

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newspapers were specifically, as reported, targeted for several months in the run-up to the general elections, 2019 (Ghoshal 2019).

Beyond informal supplications, there have been no attempts to seek redressal, leave alone challenging the government's control over advertising.

Since independence, the prerogative of the government has been to dispense its advertising to empanelled media and to cancel empanelment on various grounds. Over time, for governments, such exercise has congealed into an unfettered right.

The First Press Commission Report (1952–54) has made several historic recommendations,[1] apart from an astonishing array of media-related issues it has taken up, including the establishment of a press council, the enactment of Working Journalists Act, and the setting up of a wage board for working journalists, and also government advertising for the media.

The commission said that the "government would be justified in withholding advertisements from papers which habitually indulge in journalism which is obscene, scurrilous - which includes elements of coarseness, vulgarity and abusiveness—gives incitement to violence or endangers the security of the State."

It has conceded that newspapers must be given reasons for withholding of advertisements, and also felt the publicity directorates under state governments should not be entrusted with the task of disbursing advertisements.

The Second Press Commission Report (1978–81) has examined the relationship between the media and the government in great detail [2]. It has stated that the role of the press in a developing and democratic society should not be that of an adversary or an ally of the government. "A free press should be, in our view, a constructive critic," it has observed.

It has gone into the issue of government advertising, and preferred to allocate more share of government advertising to small and medium newspapers, avoiding those newspapers that indulged in blackmail or "yellow" journalism.

But, as jurist Rajeev Dhavan (2008) points out, fluctuations in the government advertising policy are not limited to the emergency period (1975–77), adding that those who have to beg the government for advertisements "cannot have a free voice or be able to voice entirely free opinions" (Dhavan 2008: 56).

Much, of course, has happened in the five decades since the Second Press Commission reviewed the media. With the onset of neo-liberalism and the "open skies" of the post 1980s, private broadcasting, the spurt in Hindi print journalism in the 1990s, the shift towards the internet and digital media and the current death throes of print media, advertising remains an important part of the government media policy.

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In response to a Rajya Sabha question (No 869), the government announced that there are 5,642 newspapers on the list of print media outlets eligible for government advertisements. Of the total, 120 are from Jammu and Kashmir, 65 from Jammu, and 47 published from Srinagar (DAVP nd).

The BOC website has annual reports up to 2011–12, when it was still the DAVP. According to the 2011–12 annual report, 12,131 advertisements were released to various newspapers throughout the country during the financial year 2011–12 (as on 23 December 2011). Of these, 1,054 were display advertisements and the rest were classified advertisements. According to the 2016 policy, out of the total value of advertisements released by DAVP, 15% goes to small newspapers, 35% to medium newspapers, and 50% goes to the category of large newspapers. There is no separate data on how much of this is for tenders, classifieds, and government notices in the back pages, and how much for the full-page, front-page advertisements of the government's achievements.

Over the years, the media's dependence on government largesse has increased manifold. Government advertising forms a substantial chunk of revenue for the media industry. But, government advertising for print has been going down over the years as its advertising expenditure has moved to non-print media. However, in the face of an economic slowdown, it still represents a lucrative source of revenue for print media.

In the first two years after coming to power in 2014, the Narendra Modi government spent Rs 35 crore to advertise its achievements in the print media. A right to information (RTI) application filed by activist Anil Galgali on the expenses incurred by the centre for publishing advertisements in leading newspapers across the country on its second anniversary on 26 May 2016 revealed that advertisements were issued in 11,236 newspapers, including those in regional languages. These advertisements were carried under various themes, like "Transforming India," "Vikas ki Raftaar," "Badhha Karobar," "Jan Jan Ka Uddhaar," and "NDA government Two Years" (*DNA* 2016).

In contrast, there was no such advertising corresponding to the first two years of the Manmohan Singh government, the DAVP response to the RTI query said.

The central government's total expenditure incurred from spending on media from 2014–15 to 2018–19 was Rs 5,245.73 crore. According to a written reply to a Lok Sabha question, the then Minister of State for Information and Broadcasting Rajyavardhan Singh Rathore said that Rs 2,282 crore was spent on print advertisements, Rs 2,312.59 crore on audio-visual media, and Rs 651.14 crore on outdoor publicity (*DNA* 2018).

Responses to Lok Sabha questions reveal that expenditure incurred to the government on the print media has fallen steadily from 2014 (DAVP 2020b). In 2014–15, a commitment summary of advertising in print media for 7,529 newspapers was Rs 422.310 crore. By 2018–19, in the election year, it went down to 6,325 newspapers with a commitment of Rs 511.101 crore. In 2019–20, it came down to Rs 122.921 crore for 5,661 newspapers.

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In 2003, Common Cause and Centre for Public Interest Litigation filed public interest litigations (PILs) to "restrain the Union of India and all State Governments from using public funds on Government advertisements which are primarily intended to project individual functionaries of the Government or a political party." The petitioners sought guidelines to prevent the misuse/wastage of public funds, and said that "undue political mileage is sought to be achieved by personifying individuals or political leaders" in the garb of communicating with people.

In an order on 13 May 2015, Justices Ranjan Gogoi and P C Ghose directed that a three-member committee be set up to oversee the implementation of guidelines on government advertisements (State of Karnataka v Common Cause and Ors Etc Etc 2016).

Apart from referring to the 2007 policy on empanelment procedures for the media, it merely observed:

> "In an earlier part of the present order we had indicated the power of the purse that Government advertisements invariably involve. Needless to say, the concepts of fairness and even dispensation to all media/publishing houses will have to be maintained by the Government be it at the Centre or the States." (State of Karnataka v Common Cause and Ors Etc Etc 2016).

Today, it is clear that the revenue from the government to the media industry is more in the nature of a promised reward for good behaviour. Reports in the media about plummeting advertising revenue in the first weeks of the COVID-19 lockdown estimated that the government owed media companies around Rs 1,500 to Rs 1,800 crore, around Rs 800 crore of which was payable to print media companies alone (Laghate 2020). There is absolutely no mechanism for media companies to make the government accountable for payments, save issuing appeals to it to clear its dues. Media companies could take recourse to writ jurisdiction but "who will bell the cat?" (Laghate 2020).

In fact, the media industry would rather sack hundreds of journalists without adhering to basic legal provisions governing retrenchments (due process of law) than put pressure on the government to clear its dues. Also, the media industry has brazenly sought more subsidies from the government to bail it out.

Clearly, across the country, the relationship between the fourth estate and the government is unequal, with the balance tilted heavily in the favour of the government, which engages with the media selectively and only on its own terms. And, with the aggressive reworking of nationalism beyond the Kashmir Valley, there will be no prizes for guessing which tunes the piper is called to play.

End Notes:

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[1] The First Press Commission was appointed under the chairmanship of Justice G S Rajadhyaksha on 23 September 1952. It was asked to examine the state of the press in the country and its present and future lines of development. It submitted its report on 14 July 1954.

[2] The Second Press Commission, also called the Justice P K Goswami Commission, was appointed by the Janata Party after the emergency in May 1978 to look into issues concerning freedom of speech and expression and the constitutional safeguards available, ownership patterns, financial structure of the press, the relationship between the government and the press, among others. The commission was dissolved when the Indira Gandhi government came back to power, and was reconstituted in April 1980 with Justice K K Mathew as its chair. It submitted its report in 1982.

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